

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Brian Keith Alford,)
vs. Plaintiff,) Case Number: 3:21-cv-1123
vs.) Judge: James G. Carr
Robert Zilles, et al.,)
Defendants.)

MOTION FOR EXTENSION OF TIME TO SERVE COMPLAINT

Plaintiff Brian Keith Alford (“Alford”), through counsel, respectfully files this Motion for Extension of Time to serve Defendants Lawrence M. Porter and Robert L. Zilles with a copy of the complaint pursuant to Fed. R. Civ. P. 6(B)(1). In support of the instant Motion, Alford states as follows:

“Proper service of process is required in order for this Court to obtain in personam jurisdiction over each defendant.” *Grubb v. Collins*, No. 1:09-cv-263, 2010 U.S. Dist. LEXIS 90984, at *2 (S.D. Ohio July 14, 2010) (citing to *O.J. Distrib., Inc. v. Hornell Brewing Co., Inc.*, 340 F.3d 345, 353 (6th Cir. 2003)). “Plaintiff bears the burden of exercising due diligence in perfecting service of process and of showing that proper service has been made.” *Collins*, 2010 U.S. Dist. LEXIS 90984, at *2 (citing to *Habib v. General Motors Corp.*, 15 F.3d 72, 74-5 (6th

Cir. 1994)). Service of a complaint must be made within 90 days of the filing of a complaint. Fed. R. Civ. P. 4(m). A court may extend time for good cause. Fed. R. Civ. P. 6(b)(1).

“What may a court do if the plaintiff does not show good cause for the deficient service? [The United States Court of Appeal for the Sixth Circuit] have explained that Rule 4 permits the district court discretion to either allow late service or dismiss the case without prejudice.” *Savoie v. City of E. Lansing*, No. 21-2684, 2022 U.S. App. LEXIS 23854, at *6 (6th Cir. Aug. 24, 2022). “Good cause is a flexible standard heavily dependent on the facts of the particular case as found and weighed by the district court in its equitable discretion.” *United States v. Trujillo-Molina*, 678 F. App'x 335, 338 (6th Cir. 2017) (citing *United States v. Walden*, 625 F.3d 961, 965 (6th Cir. 2010)). Alford’s new counsel appeared on October 3, 2024. Less than two business days after appearing on Alford’s behalf, Alford moves for the instant extension. Alford asserts that the diligence he has exercised to discover the addresses of the remaining defendants since acquiring new counsel constitutes good cause for this Court to grant the instant motion.

CONCLUSION

This Court should grant the instant Motion for good cause shown and permit Alford thirty (“30”) days to serve defendants Lawrence M. Porter and Robert L. Zilles.

Dated: October 7, 2024

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by Electronic Filing (CM/ECF) on October 7, 2024, on all counsel or parties of record on the service list below.



Joseph Sobecki

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